

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(197)(i)(D) and (c)(241)(i)(A)(2) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(197) * * *

(i) * * *

(D) Ventura County Air Pollution Control District.

(I) Rule 74.24, adopted on March 8, 1994.

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(241) * * *

(i) * * *

(A) * * *

(2) Rule 67.4, revised on May 15, 1996.

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[FR Doc. 97-29050 Filed 10-31-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 260**

[FRL-5916-3]

Project XL Site-Specific Rulemaking for Molex, Inc., 700 Kingbird Road Facility, Lincoln, NE

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is proposing to implement a project under the Project XL program for the Molex, Inc. (Molex) facility located at 700 Kingbird Road, Lincoln, NE. The terms of the project are defined in a draft Final Project Agreement (FPA) which is being made available for public review and comment by this document. Also, EPA is making available for informational purposes a draft variance by the Nebraska Department of Environmental Quality necessary for implementation of the project. In addition, EPA is today promulgating a direct final site-specific rule, applicable only to the Molex facility, to facilitate implementation of the project. Also in today's **Federal Register**, EPA is publishing a proposed rule identical to this direct final rule. By this document, EPA solicits comment on the direct final rule, the draft variance, the draft FPA, and the project generally. Public notice is also being provided locally.

This direct final site-specific rule is intended to provide regulatory changes under the Resource Conservation and Recovery Act (RCRA) to implement

Molex's XL project, which will result in superior environmental performance and, at the same time, provide Molex with greater operational flexibility. The flexibility provided by Project XL will allow the facility to segregate waste streams which had previously been comingled into a single waste stream. By changing the process lines to generate separate waste streams (nickel, copper, tin/lead), the facility can optimize the precipitation of each metal more effectively before the effluent is sent to the POTW. The environmental benefit from the project will be a substantial reduction in the mass loading of metals entering the City of Lincoln's POTW. In addition, the resultant mono-metal sludges will be commodity-like materials suitable for recycling by smelters. A secondary environmental benefit will be increased recycling and reducing the amount of material that would otherwise be landfilled. The site-specific rule, applicable only to the Molex facility, would change certain RCRA requirements so the implementing agency, the Nebraska Department of Environmental Quality, may issue a temporary variance from classifying as solid waste nickel, copper, and tin/lead non-precious metals containing sludges generated by Molex.

DATES: This action will be effective January 2, 1998, unless adverse comments are received by December 3, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

Public Hearing. A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning this direct final rule to implement Molex's XL project. If anyone contacts the EPA requesting to speak at a public hearing by November 24, 1997, a public hearing will be held at 7:00 p.m. on December 15, 1997. EPA will determine no later than November 28, 1997 whether a public hearing will be held. Additional information is provided in the section entitled **ADDRESSES**.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact Mr. David Doyle at the EPA by November 24, 1997. Additional information is provided in the section entitled **ADDRESSES**.

ADDRESSES: *Comments.* Written comments should be submitted in duplicate to: Mr. David Doyle, U.S. Environmental Protection Agency, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551-7667.

Docket. A docket containing supporting information used in developing this direct final rulemaking is available for public inspection and copying at U.S. EPA, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, during normal business hours, and at EPA's Water docket (Docket name "XL-Molex"); 401 M Street, SW, Washington, DC 20460. For access to the Water docket materials, call (202) 260-3027 between 9:00 a.m. and 3:30 p.m. (Eastern time) for an appointment. A reasonable fee may be charged for copying. A docket is also available for public inspection at the Nebraska Department of Environmental Quality, Lincoln, NE.

Public Hearing. If a public hearing is held, it will be held at 7:00 p.m. on December 15, 1997 at the following location: Nebraska Department of Environmental Quality, Lincoln, NE. Persons interested in whether a hearing will be held should contact Mr. David Doyle, (913) 551-7667, after November 28, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. David Doyle, U.S. Environmental Protection Agency, Region VII, Air, RCRA & Toxics Division, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551-7667.

SUPPLEMENTARY INFORMATION:**Outline of This Document**

- I. Authority
- II. Background
 - A. Overview of Project XL
 - B. Overview of the Molex XL Project
 - 1. Introduction
 - 2. Molex XL Project Description
 - 3. Environmental Benefits
 - 4. Stakeholder Involvement
- III. Resource Conservation and Recovery Act Requirements
- IV. Additional Information
 - A. Public Hearing
 - B. Executive Order 12866
 - C. Regulatory Flexibility
 - D. Paperwork Reduction Act
 - E. Unfunded Mandates Reform Act

I. Authority

This regulation is being promulgated under the authority of sections 1004, 2002, 3001-3007, and 3010 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6903, 6912, 6921-6927, and 6930).

II. Background**A. Overview of Project XL**

This site-specific rule is designed to implement a project developed under Project XL, an important EPA initiative to allow regulated entities to achieve better environmental results at less cost.

Project XL—for “eXcellence and Leadership”—was announced on March 16, 1995, as a central part of the National Performance Review’s and EPA’s effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). In addition, on April 22, 1997, EPA modified its guidance on Project XL, solicited new XL proposals, clarified EPA definitions, and described changes intended to bring greater efficiency to the process of developing XL projects. See 62 FR 19872 (April 22, 1997).

Project XL provides a limited number of private and public regulated entities an opportunity to develop their own pilot projects to provide regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to the Agency’s ability to test new regulatory strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. The Agency intends to evaluate the results of this and other Project XL projects to determine which specific elements of the project, if any, should be more broadly applied to other regulated entities to the benefit of both the economy and the environment.

In Project XL, participants in four categories—facilities, industry sectors, governmental agencies and communities—are offered the flexibility to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance. To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria—superior environmental performance; cost savings and paperwork reduction; local stakeholder involvement and support; test of an innovative strategy; transferability; feasibility; identification of monitoring, reporting and evaluation methods; and avoidance of shifting risk burden. They must have full support of affected Federal, state and tribal agencies to be selected. The XL program is intended to allow EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be required to undertake changes on a nationwide basis. As part of this

experimentation, EPA may try out approaches or legal interpretations that depart from or are even inconsistent with longstanding Agency practice, so long as those interpretations are within the broad range of discretion enjoyed by the Agency in interpreting statutes that it implements. EPA may also modify rules that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute. Adoption of such alternative approaches or interpretations in the context of a given XL project does not, however, signal EPA’s willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first finding out whether or not they are viable in practice and successful in the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, the Agency expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the alternative interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and interpretations, on a limited, site-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA’s role in implementing the environmental statutes (so long as the Agency acts within the discretion allowed by the statute). Congress’ recognition that there is a need for experimentation and research, as well as ongoing re-evaluation of environmental programs, is reflected in a variety of statutory provisions, such as sections 101(b) and 103 of the Clean Air Act. In some cases, as in this XL project, such experimentation requires an alternative regulatory approach that, while permissible under the statute, was not the one adopted by EPA historically or for general purposes.

B. Overview of the Molex XL Project

1. Introduction

Today’s direct final site-specific rule supports a Project XL draft Final Project Agreement (FPA) and the Nebraska Department of Environmental Quality draft variance that have been developed

by the Molex XL stakeholder group, namely Molex, Inc. (Molex), EPA, Nebraska Department of Environmental Quality (NDEQ), Lincoln/Lancaster County Health Department and the City of Lincoln, NE. The draft FPA and NDEQ draft variance are available for review in the docket for today’s action and also are available on the world wide web at <http://www.epa.gov/ProjectXL>. The proposed FPA outlines how the project addresses the eight Project XL criteria, in particular how the project will produce, measure, monitor, report, and demonstrate superior environmental benefits. The NDEQ draft variance is the implementation mechanism for the project.

In today’s action, the Agency is soliciting comment on the site-specific regulatory changes to implement the project. EPA also seeks comment on the proposed FPA, which is available on the world wide web and in the docket file for today’s action, in light of the criteria outlined in the Agency’s May 23, 1995, **Federal Register** notice (60 FR 27282) regarding Regulatory Reinvention (XL) Pilot Projects and April 22, 1997 **Federal Register** notice (62 FR 19872). Those criteria are: (1) Environmental performance superior to what would be achieved through compliance with current and reasonably anticipated future regulations; (2) cost savings or economic opportunity, and/or decreased paperwork burden; (3) stakeholder support; (4) test of innovative strategies for achieving environmental results; (5) approaches that could be evaluated for future broader application; (6) technical and administrative feasibility; (7) mechanisms for monitoring, reporting, and evaluation; and (8) consistency with Executive Order 12898 on Environmental Justice (avoidance of shifting of risk burden).

2. Molex XL Project Description

Molex is a multinational company that operates several electroplating facilities worldwide. Molex as part of its proposal has upgraded its facility in Lincoln, NE by changing its waste water treatment system to allow it to optimize the recovery of metals used in the electroplating processes. Once operating this system under the project, the primary environmental benefit will be the reduction of metals loading in the effluent discharges into the publicly owned treatment works (POTW). A secondary environmental benefit will be increased recycling and reducing the amount of material that would otherwise be landfarmed.

This project is an alternative environmental compliance strategy that encompasses technical changes to the

facility's wastewater treatment system, environmental improvements in the effluent to the POTW, regulatory relief for the facility for storage and shipment of wastes, and documentation of the technical, environmental and economic impacts of the alternative strategy.

The facility generates several metals-bearing wastewater streams that formerly were brought together for combined treatment. Metals recovery in such a system is limited because each metal has its own optimal set of treatment conditions. At its new facility Molex is operating a segregated treatment system that separately treats each metal waste stream to optimize the precipitation of each metal contaminant to more effectively remove metals from the effluent to the POTW. Molex has made its investment in the system in anticipation of its participation in the XL program and the regulatory relief it will provide. At the new facility Molex changed the process lines to generate separate treatment sludges for nickel, copper, and tin/lead. The environmental benefit will be a substantial reduction in the mass loading of metals entering the City of Lincoln's POTW. In addition, the resultant mono-metal sludges will be commodity-like materials suitable for recycling by smelters. However, the segregated system will cost more to operate than a combined treatment system. Additionally, the segregated system will result in increased costs from compliance with the current regulations for handling the resultant sludges. Currently, Molex is handling the sludges as hazardous wastes. Without the regulatory relief provided in this project, Molex will not be able to financially justify continued operation of the segregated system.

3. Environmental Benefits

This project supports goals of both the Federal Water Pollution Control Act (FWPCA), Nebraska Surface Water Quality Standards, Resource Conservation and Recovery Act (RCRA) and the Nebraska Hazardous Waste Management Program.

This project supports the FWPCA and Nebraska Surface Water Quality Standards goals to restore and maintain the chemical, physical and biological integrity of the Nation's and State's waters. Specifically, this project reduces the metals loading effluent into the City of Lincoln, NE's POTW, thus reducing metals discharges from the POTW into the nation's and State's waters and metals constituents in the POTW sludge that ultimately is landfarmed. Additionally, the reduced loading maintains the reserve treatment capacity of the POTW, thus deferring the

replacement or enlargement of the publicly financed construction.

This project also supports the RCRA and Nebraska Hazardous Waste Management Program goals of resource recovery and conservation. Specifically, this project results in direct recycling of mono-metals bearing sludges by smelters, which will decrease the need for mining of ores or other virgin materials, thus conserving mineral resources and reducing the amount of materials that would otherwise be landfarmed.

4. Stakeholder Involvement

The participating stakeholders are the signatories to this FPA. In addition, the Lincoln/Lancaster County Health Department and the City of Lincoln, Nebraska have supported the development of this project. Also, the public has been notified from the outset of this project and invited to participate, and will continue to be informed as the project is implemented through dissemination of the reports submitted by Molex to NDEQ and EPA.

III. Resource Conservation and Recovery Act Requirements

A. Summary of Regulatory Changes for the Molex XL Project

The NDEQ hazardous waste program has been authorized by EPA pursuant to the Resource Conservation and Recovery Act (RCRA) Section 3006(b) and 40 CFR Part 271, to carry out the Nebraska program in lieu of the Federal hazardous waste program. Sludges from Molex's former combined treatment system contain copper, nickel, tin, lead, and gold. The gold content of the materials has allowed Molex to handle the combined treatment sludge as "recyclable materials" from which precious metals are reclaimed under Title 128, Rules and Regulations Governing Hazardous Waste Management in Nebraska, Chapter 7, Section 010.

Except for a small quantity of sludge generated from the gold plating operation, the sludges at the new facility will not contain precious metals and therefore will not qualify as "recyclable material" from which precious metals are reclaimed. As such, in the absence of this regulatory relief, the materials will be subject to the NDEQ Title 128 generator requirements for storage and shipment of hazardous wastes, at considerably greater expense for storage, shipment and disposal/recycling as compared to the precious metals exemption. With the regulatory relief, Molex will be allowed to handle the non-precious mono-metals sludges as a

commodity-like material with substantially reduced regulatory compliance costs.

To accomplish the regulatory relief, the U.S. EPA today is promulgating a direct final site-specific rule to amend 40 CFR 260.31(c), which provides that authorized state agencies may:

"* * * grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further)."

The federal site-specific rule will provide that the nickel, copper, and tin/lead non-precious metals bearing sludges generated at the Molex facility may qualify for a regulatory variance from NDEQ. The site-specific rule will also provide that the variance may be issued on a temporary basis by NDEQ.

IV. Additional Information

A. Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make oral presentations regarding the direct final rule. Persons wishing to make oral presentation on the rule to implement Molex's XL project should contact the EPA at the address given in the ADDRESSES section of this document. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be sent to EPA at the addresses given in the ADDRESSES section of this document. If a public hearing is held, a verbatim transcript of the hearing and written statements will be available for inspection and copying during normal business hours at the EPA addresses given in the ADDRESSES section of this document.

B. Executive Order 12866

Because this rule only affects one facility it is not a rule of general applicability subject to OMB review under E.O. 12866. In addition, OMB has agreed that they do not need to review site specific rules under Project XL.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and

small governmental jurisdictions. This rule would not have a significant impact on a substantial number of small entities because it only affects one entity, the Molex facility in Lincoln, NE. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This action applies only to one company, and therefore requires no information collection activities subject to the Paperwork Reduction Act, and therefore no information collection request (ICR) will be submitted to the Office of Management and Budget (OMB) for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising

small governments on compliance with the regulatory requirements.

As noted above, this rule is limited to Molex's facility in Lincoln, NE. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects in 40 CFR Part 260

Environmental protection, Hazardous waste, Treatment storage and disposal facility, Waste determination.

Dated: October 27, 1997.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble of this rule, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921-6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

2. Section 260.31 is amended by adding paragraph (d) to read as follows:

§ 260.31 Standards and criteria for variances from classification as a solid waste.

* * * * *

(d) Pursuant to participation by Molex, Inc. in the Project XL program (May 23, 1995 and April 22, 1997), and for a period not to exceed two years, the Nebraska Department of Environmental Quality may grant to the Molex, Inc. facility located at 700 Kingbird Road in Lincoln, NE, a temporary variance from classifying as a solid waste the commodity-like nickel, copper, and tin/lead non-precious metals bearing sludges generated at the facility.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7673]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Associate Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Associate Director finds that the delayed effective dates would be contrary to the public interest. The Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act.
This rule is categorically excluded from